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Message Text

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TAGS:ICRC, PARM, VS, VN, PFOR

SUBJECT: U.S.MILITARY PERSONNEL IN SOUTH VIETNAM
U.S. MILITARY PERSONNEL IN SOUTH VIETNAM

REFS: (A) GENEVA 849; (B) STATE 30436

FOR ALDRICH FROM LEGAL ADVISER

1. TO GIVE YOU FURTHER BACKGROUND ON ABOVE SUBJECT, TEAM CONSISTS OF SEVENTEEN (17) UNIFORMED AIR FORCE PERSONNEL. THEY ARE SUPPLY MANAGEMENT SPECIALISTS WHO ALSO HAVE TRAINING IN THE COMPUTER USED IN THE SOUTH VIETNAMESE SUPPLY MANAGEMENT SYSTEM. THERE HAVE APPARENTLY BEEN SOME PROBLEMS IN THE RECEIPT, STORAGE AND ACCOUNTING FOR CERTAIN HIGH-PRIORITY SPARE PARTS NEEDED TO REPAIR GROUNDED AIR-CRAFT, AND TEAM IS THERE TO HELP IDENTIFY AND WORK OUT THESE PROBLEMS. ULTIMATE PURPOSE IS BETTER COORDINATION
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BETWEEN US AND SOUTH VIETNAMESE SUPPLY SYSTEMS AND

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ENHANCING EFFECTIVENESS OF OUR AID PROGRAM. WE UNDERSTAND FROM DOD THAT TEAM ORIGINALLY STAYED IN VIETNAM ONLY THREE WORKING DAYS AT A TIME TO COMPLY WITH MISSION/DOD RULE LIMITING STAY OF TRANSIENT MILITARY PERSONNEL TO THREE WORKING DAYS. (THIS RULE WAS INSTITUTED ON FEBRUARY 2, 1973, BY SECDEF. UNDER THIS RULE, TRANSIENTS ARE EXEMPT FROM DAO PERSONNEL CEILING OF FIFTY MILITARY PERSONNEL.) DAY RULE AND TEAM REMAINING IN VIETNAM ON CONTINUING BASIS.
2. WE ARE INFORMED THAT THERE HAVE BEEN MANY TRANSIENT VISITS OF MILITARY PERSONNEL TO SAIGON, EITHER INDIVIDUALLY OR IN SMALL GROUPS, SINCE THE CEASEFIRE. THESE VISITS HAVE HAD A VARIETY OF PURPOSES RELATED TO OUR ASSISTANCE PROGRAM, INTELLIGENCE MATTERS AND SO FORTH. TO OUR KNOWLEDGE THE "THREE-DAY RULE" HAS GENERALLY BEEN OBSERVED ALTHOUGH THERE HAVE BEEN SOME EXCEPTIONS SUCH AS THE RECENT TWO-TO-THREE WEEK VISIT OF A HIGH-LEVEL DOD/CINCPAC TEAM WHICH STUDIED RVNAF FORCE STRUCTURE AND OTHER BASIC ISSUES RELATED TO OUR MILITARY AID PROGRAM.

3. UNTIL NOW, WE HAVE NOT BEEN AWARE OF ANY SERIOUS CONGRESSIONAL OR PUBLIC QUESTIONING OF ANY OF THESE VISITS. HOWEVER, IN LIGHT OF CURRENT VISIT, WE CAN REASONABLY EXPECT SUCH QUESTIONING, AND WE CONSIDER THAT THIS IS A MATTER WE MAY NEED TO DISCUSS WITH THE SECRETARY. TO ASSIST US IN OUR CONSULTATIONS, WE WOULD APPRECIATE ANY FURTHER VIEWS YOU MAY HAVE IN LIGHT OF ADDITIONAL INFORMATION SET FORTH ABOVE. WOULD ALSO APPRECIATE KNOWING WHETHER YOU WOULD HAVE ANY DIFFICULTY WITH OUR RESPONDING TO CONGRESSIONAL OR OTHER INQUIRIES ALONG LINES THAT WHILE SUCH VISIT MAY BE TECHNICAL VIOLATION OF AGREEMENT, IT IS DE MINIMUS IN TERMS OF LIMITED AND TEMPORARY NATURE?

4. ON THE BROADER QUESTION, WOULD ESPECIALLY APPRECIATE YOUR VIEWS ON TWO ASPECTS OF THE PROBLEM. FIRST, WHAT MEANINGFUL DISTINCTIONS, IF ANY, DO YOU BELIEVE CAN BE DRAWN BETWEEN TYPES OF TRANSIENT VISITS OF MILITARY PERSONNEL WHICH CAN BE JUSTIFIED EITHER AS "NON-INTRODUCTION" OR "DE MINIMUS"? ONE POSSIBLE LINE OF DISTINCTION WHICH HAS OCCURRED TO US HERE WOULD BE WHETHER THE VISIT WAS DESIGNED TO SECURE INFORMATION FOR OUR OWN
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PROGRAMS AS OPPOSED TO ASSISTING OR PERFORMING TECHNICAL SERVICES FOR OR WITH THE VIETNAMESE. THAT WOULD PERMIT VIP, STAFF AND INSPECTION VISITS AS WELL AS THE RECENT HIGH-LEVEL DOD/CINCPAC VISIT REFERRED TO ABOVE. SECONDLY, WOULD ALSO APPRECIATE YOUR VIEWS ON POSSIBILITY OF CERTAIN MILITARY VISITORS, SUCH AS PRESENT TEAM, GOING TO VIETNAM ON TDY TO DAO, ASSUMING THERE WOULD NOT BE MORE THAN FIFTY (50) MILITARY PERSONNEL IN DAO IN COUNTRY AT ONE TIME.

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WOULD THIS, IN YOUR VIEW, ELIMINATE ARTICLE 7 PROBLEMS? ALTERNATIVELY, WOULD YOU SEE ANY PROBLEM WITH UTILIZATION OF CIVILIAN PERSONNEL FOR THIS PURPOSE IN TERMS OF ARTICLE 7 PROHIBITION ON CIVILIAN AS WELL AS MILITARY ADVISERS?

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5. AS ADDENDUM TO PARA 1 ABOVE, ESTIMATED DURATION OF TEAM MISSION IS THREE WEEKS TO TWO MONTHS. INGERSOLL

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